

## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

☐ FEPA  
☒ EEOC

CHARGE NUMBER

30-2005-02400

State or local Agency, if any

and EEOC

NAME (indicate Mr., Ms., Mrs.)

Ms. Cynthia Ellison

HOME TELEPHONE (include area code)

334-271-6199

STREET ADDRESS

1598 Sandstone Court

CITY, STATE AND ZIP CODE

Montgomery, Alabama 36117

DATE OF BIRTH

10/22/55

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

NUMBER OF EMPLOYEES, MEMBERS

1000 +

TELEPHONE (Include Area Code)

334-244-3000

STREET ADDRESS

CITY, STATE AND ZIP CODE

School of Sciences, 7430 East Drive

Montgomery, Alabama 36124-4034

COUNTY

Montgomery

NAME

Chris Mahaffey

TELEPHONE NUMBER (Include Area Code)

334-244-3000

STREET ADDRESS

CITY, STATE AND ZIP CODE

7430 East Drive

Montgomery, Al. 36124-4034

COUNTY

Montgomery

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

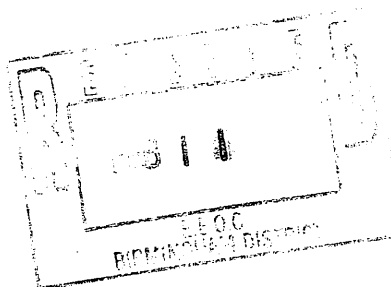
☒ RACE☐ COLOR☐ SEX☐ RELIGION☐ AGE☒ RETALIATION☐ NATIONAL  
ORIGIN☐ DISABILITY☐ OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE  
EARLIEST (ADEA/EPA) LATEST (ALL)

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

ATTACHED HERETO AND INCORPORATED HEREIN AS IF FULLY SET OUT.



want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

declare under penalty of perjury that the foregoing is true and correct.

Cynthia Ellison

SIGNATURE OF COMPLAINANT

Cynthia Ellison

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS DATE  
(DAY, MONTH, AND YEAR)

Date February 10, 2005

Charging Party (Signature)

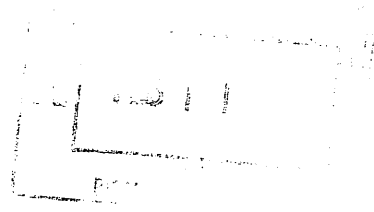
DC FORM 5 (Test 10/94)

MONTGOMERY COUNTY  
STATE OF ALABAMA

**AFFIDAVIT**

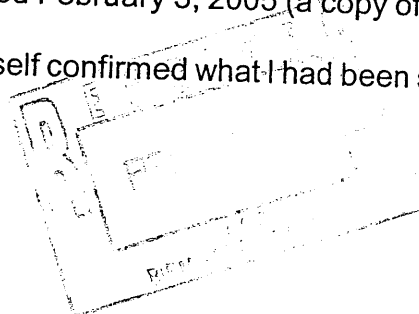
My name is Cynthia Ellison, and I do swear that the following is true and correct in every particular:

1. I am a female of African-American decent, and I am of sound mind and body.
2. For the past twenty years, I have been employed by Auburn University of Montgomery, in the Dean's office of the School of Sciences. My position has been that of Executive Secretary, but the title subsequently was changed to Senior Administrative Associate/Advisor. For over twenty years, I have received excellent evaluations from my job, and never had any reprimands or warnings for disciplinary conduct. I have enjoyed my work advising students and working with the Dean.
3. Chris Mahaffy, a white male, has been chair of the Physical Science department for the past 4 years. He is of Irish origin, and has made the statement **that he had never seen a black person before he came to the United States of America. He has further commented that black citizens do not seem to be as smart as white citizens in the United States.**
4. Chris Mahaffy very much wanted to be Dean of the School of Sciences. An initial search was made for a new Dean back in 2002, and he was not selected. A man named Bob Elliot was selected, but he retired after a short period of time, which resulted in a second search beginning. In 2004, Dr.



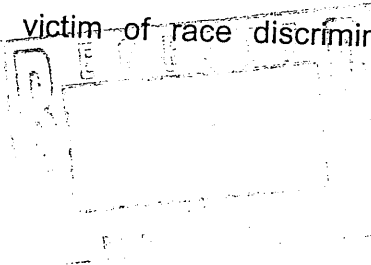
Bayo Lawal was hired as Dean.

5. Unfortunately, after the first search resulted in Mr. Mahaffy not being selected, he started singling me out as one who had some responsibility in his non-selection, which is not true. Nonetheless, **his secretary, Allison Stevens called me the "n" word**, and Mr. Mahaffy himself made the open statement that **"blacks should not hold responsible positions"**. He made that statement in front of Debra Foster, Director of the Human Resource Department and Affirmative Action Director, and Faye Ward, who is the Asst. Director of Human Resources. Ms. Ward is the one who told me he said it. See copy of my memorandum to Dr. Ritvo dated December 3, 2004 about the statements, attached hereto as Exhibit A.
6. In addition, Associate Dean Glen Ray informed me that **other remarks made by Mahaffy about me were so disparaging and bad, that he "could not repeat them."**
7. Unfortunately, due to Mr. Mahaffy's initial belief that I did not support him for the deanship, and in response to the complaint I filed on December 3, 2004, Mr. Mahaffy targeted me for intense retaliation.
8. I am convinced that Mr. Mahaffy is not stable, given the retaliatory way he has treated me, and given his other behavior in the office. I have complained to every sitting dean in the office about it. In fact, although the retaliation was continuing, AUM's Vice Chancellor's office began an investigation of Chris Mahaffy. Finally, by memorandum dated February 3, 2005 (a copy of which is attached hereto as Exhibit B) AUM itself confirmed what I had been saying



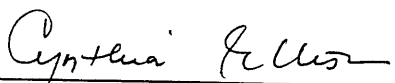
to AUM all along.

9. Even though Mr. Mahaffy had been warned not to harass me, he continued to walk by my office and give me looks that made me uncomfortable.
10. Despite AUM's issuance of the February 3, 2005 memorandum instructing Mahaffy to avoid his retaliatory behavior towards me, he has not done so, and instead made me very fearful of what he might do next. I therefore found it necessary to resign under the intense pressure of all this, which I consider to be a "constructive discharge."
11. Before resigning, I sent a memorandum dated February 7, 2005 to Ms. Debra Foster, Director of HR and Affirmative Action of AUM, setting forth my continued dismay with Mr. Mahaffy. See the same attached hereto as Exhibit C. In addition, on February 9, 2005, I delivered a memorandum to Dr. Lawal, Dean of the School Sciences, stating that "please accept this as my notification to you of my intent to retire. As stated in my letter to Debra Foster, I am no longer willing to subject myself to an environment that is potentially unsafe to me and others around me. The effective date of my retirement will be April 1, 2005. I would also like to discuss with you my plans concerning leave." See copy of said memo attached hereto as Exhibit D.
12. The reason I made the effective date as April 1, 2005 is that I have enough accumulated leave time that I can use until April 1, 2005, without having to return to work.
13. As the foregoing affidavit and the attached exhibits reflect, I feel strongly that I have been a victim of race discrimination and unlawful retaliation

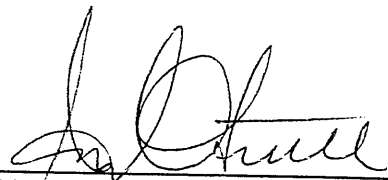


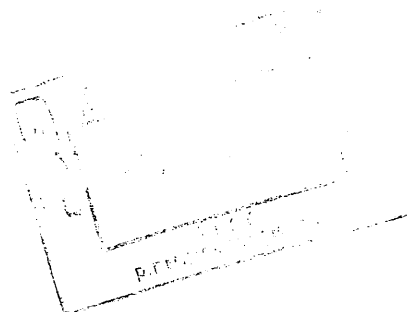
discrimination in violation of Title VII, 42 U.S.C. Section 2000 (e). My rights under 42 U.S.C. Section 1981 have also been violated. I have suffered intense mental anguish, and continue to suffer the same.

14. I have retained the law firm of McPhillips Shinbaum, L.L.P. , and Julian L. McPhillips, Jr. , to represent me in this matter. Any further communications with me should be through Mr. McPhillips or his senior legal assistant Amy Strickland.

  
Cynthia Ellison

Before me, the undersigned Notary Public, appeared Cynthia Ellison, who, known to me, do swear the foregoing is true and correct in every particular on this 10 day of February, 2005.

  
Notary Public



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Cynthia Ellison  
c/o Julian L. McPhillips  
McPhillips Shinbaum, L.L.P.  
Post Office Box 64  
Montgomery, AL 36101

From: Equal Employment Opportunity  
Commission Birmingham District Office  
Ridge Park Place - Suite 2000  
1130 - 22<sup>nd</sup> Street, South  
Birmingham, AL 35205



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR § 1601.7(a))

*Deedone*  
*on 10/8/05*  
*October 4, 2005*

EEOC Charge No.

EEOC Representative

Telephone No.

130 2005 02400

Ron Lyas, Investigator

(205) 212-2114

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

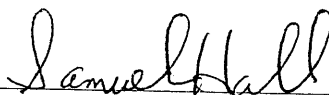
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this Notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Bernice Williams-Kimbrough, District Director

Enclosure(s)

*7/5/05*  
(Date Mailed)

cc:

Thomas P. Rebel  
Fisher & Phillips LLP  
1500 Resurgens Plaza  
945 East Paces Ferry Road  
Atlanta, GA 30326-1125